

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Holmes et al.

Art Unit:

RECEIVED

Serial No.: 09/754,600

SEP 16 2002

Examiner:

OFFICE OF PETITIONS

Filed: January 5, 2001

For: REFRIGERATOR SYSTEM
AND SOFTWARE
ARCHITECTURE

**PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT OR, IN THE
ALTERNATIVE, FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED
PATENT APPLICATION**

Box DAC
Hon. Commissioner for Patents
Washington, D.C. 20231

Pursuant to 37 C.F.R. § 1.181, MPEP 711.03(c) II, and 1156 OG 53, Applicants hereby petition to withdraw holding of abandonment based on failure to receive an office communication.

The present application was transferred by GE Appliances (GE) to Armstrong Teasdale LLP (AT) in connection with GE requesting that AT take over docketing responsibility. In reviewing the approximately 383 files transferred, it was discovered by status checks that this application and approximately 42 other applications that were believed to be pending actually had a status of abandoned. Specifically, through a telephone status check to the USPTO, Applicants learned that the above-identified application has been held to be abandoned. More particularly, in the telephone status check, Applicants learned that a NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION was mailed by the USPTO to Applicants on February 21, 2001. The undersigned has examined Applicants' file regarding the subject application and the file does not include a NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION or a notice of abandonment. Additionally, attached is a copy of GE's file folder where the NOTICE TO

FILE MISSING PARTS OF NONPROVISIONAL APPLICATION would have been docketed had the NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION been received and docketed.

Applicants respectfully submit that Applicants' record is indicative of Applicants never receiving the NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION. Accordingly, Applicants respectfully request that the holding of abandonment be withdrawn. Specifically, Applicants request that the signed declaration submitted herewith and the fee of \$130.00 under 37 C.F.R. § 1.16(e) submitted herewith be accepted and that the holding of abandonment be withdrawn. The foregoing request is consistent with 1156 OG 53 in that the request includes a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received, and a copy of the docket record where the non-received Office action would have been entered had it been received and docketed is attached to and referenced in practitioner's statement.

Applicants believe that no fee is due for this petition and the Commissioner is hereby authorized to charge payment of the total fees due in the amount of \$130.00 to deposit account 01-2384. If \$130.00 is not the correct fee, then the Commissioner is hereby authorized to charge the correct fee to deposit account 01-2384.

If the above petition under 37 C.F.R. § 1.181 is not granted, then pursuant to 37 C.F.R. §§ 1.316 and 1.137(b), and MPEP 711.03(c) III, Applicants hereby petition to revive the subject patent application as unintentionally abandoned. The following authorizations and statements are provided in accordance with 37 C.F.R. 1.137(b):

- (1) Authorization to charge the late filing fee under 37 C.F.R. § 1.16(e) to a deposit account is set forth below in Paragraph (4).
- (2) Authorization to charge the petition fee (37 C.F.R. 1.17(m)) is set forth below in Paragraph (4).

(3) The entire delay in the filing of the required reply from the due date for the reply until the filing of this petition was unintentional.

(4) Fees:

a. Payment of the late filing fee \$ 130.00

b. Petition fee
(37 C.F.R. 1.17(m)) \$ 1,280.00

TOTAL FEES DUE: \$ 1,410.00

The Commissioner is hereby authorized to charge payment of the total fees due in the amount of \$1,410.00, any deficiencies in the enclosed fees, or credit any overpayment, to Deposit Account No. 01-2384. (A duplicate of this petition is enclosed.)

(5) Enclosed is a copy of the NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION.

(6) Enclosed is a signed declaration of John S. Holmes, Robert M. Bultman, Wolfgang Daum, Richard Hornung and Rollie R. Herzog.

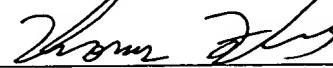
(7) Enclosed is a signed declaration of Jerry J. Queen II.

(8) Enclosed are seventy-one (71) sheets of formal drawings.

(9) Enclosed is a copy of GE's file folder where the NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION would have been docketed had the NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION been received and docketed.

For the reasons set forth above, Applicants respectfully request that the holding of abandonment be withdrawn, or in the alternative, that the subject application be revived.

Respectfully Submitted,



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